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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

ELECTRICAL WORKERS PENSION FUND,  
LOCAL 103, I.B.E.W., On Behalf of Itself and  
All Others Similarly Situated

Plaintiff,

vs.

NUVELO, INC., et al.,

Defendants.

No. 3:07-cv-04056-MJJ  
CLASS ACTION

**~~PROPOSED~~ ORDER CONSOLIDATING  
RELATED ACTIONS, APPOINTING JUAN  
PABLO CABRERA, FRANK C. PETRONIS  
AND PATRICIA A. PETRONIS AND TODD  
A. STEPHENS AND AMY STEPHENS AS  
LEAD PLAINTIFFS AND APPROVING  
THEIR CHOICE OF COUNSEL AS CO-  
LEAD COUNSEL**

DATE: October 2, 2007  
TIME: 9:30 a.m.  
COURTROOM: The Hon. Martin J. Jenkins

Having considered the papers in support of the various motions for appointment of lead plaintiff and consolidation of related actions filed pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78u-4(a)(3)(B), and the Consolidated Response to Pending Motions of All Lead Applicants Regarding the Appointment of Lead Plaintiffs and Co-Lead Counsel for good cause shown, the Court hereby enters the following Order:

# **I. CONSOLIDATION**

1. Pursuant to Federal Rule of Civil Procedure 42 and § 78u-4(a)(3)(B)(ii) of the Exchange Act, as amended by the Private Securities Litigation Reform Act of 1995 (“PSLRA”), the following actions are hereby consolidated for all purposes into one action:

<u>Abbreviated Case Name</u>	<u>Case Number</u>	<u>Date Filed</u>
<i>Electrical Workers Pension Fund, Local 103, I.B.E.W. et al. v. Nuvelo, Inc. et al.</i>	3:07-cv-04056-MJJ	08/08/07
<i>Logan v. Nuvelo, Inc. et al.</i>	3:07-cv-04057-MJJ	08/08/07
<i>Giles v. Nuvelo, Inc. et al.</i>	3:07-cv-04058-MJJ	08/08/07
<i>Braker v. Nuvelo, Inc. et al.</i>	3:07-cv-04059-MJJ	08/08/07

2. These actions shall be referred to as the “Consolidated Action.” This order shall apply to the Consolidated Action and to each case that is subsequently filed in this Court or transferred to this Court that relates to the same subject matter as in the Consolidated Action.

3. Every pleading in this Consolidated Action shall bear the following caption:

## **UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA**

In re NUVELO, INC. SECURITIES )	Master File No. 07-cv-04056-MJJ
LITIGATION )	
)	CLASS ACTION
)	
This Documents Relates To: )	[TITLE OF DOCUMENT]

4. When the document being filed pertains to all actions, the phrase “All Actions” shall [3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

1 appear immediately after the phrase “This Document Relates To:.” When a document applies to  
2 some, but not all, of the actions, the document shall list, immediately after “This Document Relates  
3 To:”, the docket number for each individual action to which the document applies, along with the  
4 name of the first-listed plaintiff in said action.

5           5.       This Court requests the assistance of counsel in calling to the attention of the Clerk of  
6 this Court the filing or transfer of any case which might properly be consolidated as part of this  
7 Consolidated Action.

9 **II.     MASTER DOCKET AND MASTER FILE**

10           6.       A Master Docket and Master File shall be established for the Consolidated Action.  
11 The Master File shall be No. 07-cv-04056-MJJ. All orders, pleadings, motions and other documents  
12 shall, when filed and docketed in the Master file, be deemed filed and docketed in each individual  
13 case to the extent applicable. When an order, pleading, motion or document is filed with a caption  
14 indicating that it is applicable to fewer than all of these consolidated action, the clerk shall file such  
15 pleadings in the Master File and note such filing in the Master Docket and in the docket of each  
16 action referenced.

18 **III.    NEWLY-FILED OR TRANSFERRED ACTIONS**

19           7.       When a case that arises out of the subject matter of this action is hereinafter filed in  
20 this Court or transferred to this Court from another court, the Clerk of this Court shall:

- 21                   a. file a copy of this Order in the separate file for such action;  
22                   b. mail a copy of this Order to the attorneys for the plaintiff(s) in the newly filed or  
23 transferred case and to any new defendant(s) in the newly filed or transferred case; and  
24                   c. make the appropriate entry in the docket for this action.

25           8.       Each new case which arises out of the subject matter of this Consolidated Action that  
26

27 [3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO  
28 CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY  
STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

1 is filed in this Court or transferred to this Court shall be consolidated with this action and this Order  
 2 shall apply thereto, unless a party objecting to this Order or any provision of this Order shall, within  
 3 ten (10) days after the date upon which a copy of this Order is served on counsel for such party, files  
 4 an application for relief from this Order or any provision herein and this Court deems it appropriate  
 5 to grant such application.  
 6

7 9. During the pendency of this litigation, or until further order of this Court, the parties  
 8 shall take reasonable steps to preserve all documents within their possession, custody or control,  
 9 including computer-generated and stored information and materials such as computerized data and  
 10 electronic mail, containing information that is relevant to or which may lead to discovery of  
 11 information relevant to the subject matter of the pending litigation.  
 12

#### 13 **IV. APPOINTMENT OF LEAD PLAINTIFFS AND LEAD PLAINTIFFS' COUNSEL**

14 10. Juan Pablo Cabrera ("Cabrera") and Frank C. Petronis, Patricia A. Petronis, Todd A.  
 15 Stephens, and Amy Stephens (the "Petronis Group") have moved the Court to be appointed as Lead  
 16 Plaintiffs in the Consolidated Action and to approve their selection of Co-Lead Counsel.

17 11. Having considered the provisions of § 21D(a)(3)(B) of the PSLRA, 15 U.S.C. § 78u-  
 18 4(a)(3)(B), and each of the lead plaintiff motions, including the consolidated response, the Court  
 19 hereby concludes that Cabrera and the Petronis Group are the "most adequate plaintiffs" and that  
 20 they satisfy the requirements of § 21D of the PSLRA. The Court hereby appoints Cabrera and the  
 21 Petronis Group to be Lead Plaintiffs in the Consolidated Action against Nuvelo, Inc. and the other  
 22 defendants and to represent the interests of the Class.  
 23

24 12. Pursuant to § 21D(a)(3)(B)(v) of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B)(v), the Lead  
 25 Plaintiffs have selected and retained the law firms of Berger & Montague, P.C. and Schatz Nobel  
 26 Izzard, P.C. to serve as Co-Lead Counsel and Coughlin Stoia Geller Rudman & Robbins LLP as  
 27

28 [3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO  
 CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY  
 STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

1 Liaison Counsel. The Court hereby appoints Schatz Nobel IZard, P.C. and Berger & Montague,  
2 P.C., as Co-Lead Counsel and Coughlin Stoia Geller Rudman & Robbins LLP as Liaison Counsel.

3 13. Co-Lead Counsel shall have the authority to speak for all plaintiffs and class members  
4 in all matters regarding the litigation including, but not limited to, pre-trial proceedings, motion  
5 practice, trial and settlement, and shall make all work assignments in such a manner as to facilitate  
6 the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive effort.

7 Additionally, Co-Lead Counsel shall have the following responsibilities:

- 8
- 9 a. to brief and argue motions;
  - 10 b. to initiate and conduct discovery including, without limitation, coordination of  
11 discovery with defendants' counsel, the preparation of written interrogatories, requests for  
12 admissions and requests for production of documents;
  - 13 c. to direct and coordinate the examination of witnesses in depositions;
  - 14 d. to act as spokesperson at pretrial conferences;
  - 15 e. to call and chair meetings of plaintiffs' counsel as appropriate or necessary  
16 from time to time;
  - 17 f. to initiate and conduct any settlement negotiations with counsel for defendants;
  - 18 g. to provide general coordination of the activities of plaintiffs' counsel and to  
19 delegate work responsibilities to selected counsel as may be required in such a manner as to lead to  
20 the orderly and efficient prosecution of this litigation and to avoid duplication or unproductive effort;
  - 21 h. to consult and employ experts;
  - 22 i. to receive and review periodic time reports of all attorneys on behalf of plaintiffs, to  
23 determine if the time is being spent appropriately and for the benefit of plaintiffs, and to determine  
24 and distribute plaintiffs' attorneys' fees; and
- 25

1 j. to perform such other duties as may be expressly authorized by further order of this  
2 Court.

3 14. Co-Lead Counsel and Liaison Counsel shall be responsible for coordinating all  
4 activities and appearances on behalf of the Class and for disseminating notices and orders of this  
5 Court.

6 15. No motion, application or request for discovery shall be served or filed, or other  
7 pretrial proceedings initiated, on behalf of Lead Plaintiffs, except through Co-Lead Counsel or  
8 Liaison Counsel.

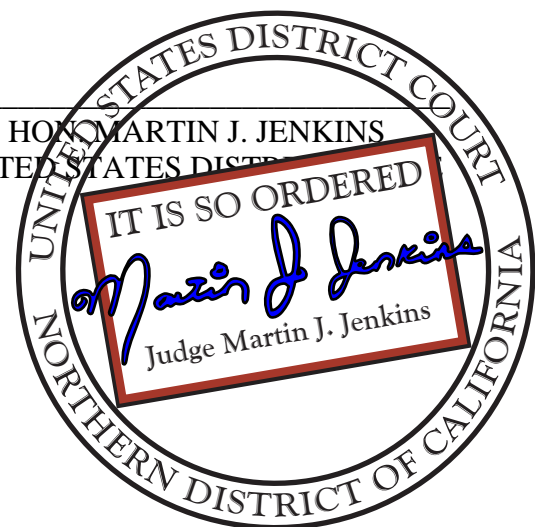
9 16. All notices, proposed orders, pleadings, motions, discovery, and memoranda shall be  
10 served upon Co-Lead Counsel and Liaison Counsel by overnight mail service, telecopy, e-mail, or  
11 hand delivery.

12 17. Co-Lead Counsel and Liaison Counsel for the Class shall be available and responsible  
13 for communications to and from the Court.

14 18. Defendants' counsel may rely upon all agreements made with the Co-Lead Counsel,  
15 Liaison Counsel or other duly authorized representatives of Lead Plaintiffs.

16  
17  
18  
19 DATED: 9/19/2007

20 THE HONORABLE MARTIN J. JENKINS  
21 UNITED STATES DISTRICT COURT



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28 [3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO  
CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY  
STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

Submitted by:

DATED: September 11, 2007

**COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP**

/s/ Dennis J. Herman

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*Proposed Liaison Counsel for Plaintiffs*

I, Dennis J. Herman, am the ECF User whose ID and password are being used to file this [PROPOSED] ORDER CONSOLIDATING RELATED ACTIONS, APPOINTING JUAN PABLO CABRERA, FRANK C. PETRONIS AND PATRICIA A. PETRONIS AND TODD A. STEPHENS AND AMY STEPHENS AS LEAD PLAINTIFFS AND APPROVING THEIR CHOICE OF COUNSEL AS CO-LEAD COUNSEL. In compliance with General Order 45, X.B., I hereby attest that the undersigned have concurred in this filing.

/s/ Dennis J. Herman  
DENNIS J. HERMAN

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/s/ Andrew M. Schatz

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Todd A. Stephens and Amy Stephens*

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[3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 11, 2007.

s/ Dennis J. Herman  
DENNIS J. HERMAN

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## Electronic Mail Notice List

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## Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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